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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,716	03/07/2006	Jean-Yves Corbin	BDM-05-1828	9976

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IP GROUP OF DLA PIPER LLP (US)  
ONE LIBERTY PLACE  
1650 MARKET ST, SUITE 4900  
PHILADELPHIA, PA 19103

EXAMINER
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GUMBS, KEEGAN ROSS

ART UNIT	PAPER NUMBER
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3751

NOTIFICATION DATE	DELIVERY MODE
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07/22/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pto.phil@dlapiper.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/561,716	<b>Applicant(s)</b> CORBIN ET AL.	
	<b>Examiner</b> KEEGAN GUMBS	<b>Art Unit</b> 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 47-92 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 47-92 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

**Species 1-** a device for distributing a product having a piston (for example Fig. 1);

**Species 2-** a device for distributing a product including a pump and a tube (for example Fig. 14);

**Species 3-** a device for distributing a product wherein a distribution zone is formed at a lower part the device and includes a valve (for example Fig. 15);

**Species 4-** a device for distributing a product wherein a distribution zone is formed at a lower part of the device and further includes conduits;

**Species 5-** a device for distributing a product having a flexible lower membrane and piston (for example Fig. 24);

**Species 6-** a device for distributing a product having a bottle pourer which is part of the distribution zone (for example Fig. 29);

**Species 7-** a device for distributing a product having a shoe with a hollow needle (for example Fig. 31);

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**Species 8-** a device for distributing a product having a flexible or elastic pocket (for example Fig. 33);

**Species 9-** a device for distributing a product having flexible or elastic pocket in the shape of bar of soap and having a flexible membrane;

**Species 10-** a device for distributing a product including a pocket which is emptied by a mechanical action in a buffer reservoir;

**Species 11-** a device for distributing a product wherein the excess pressure which causes distribution of the product is constituted of atmospheric pressure

**Species 12-** a device for distributing a product including a variable volume reservoir; more specifically, the reservoir formed by a bellows.

Additionally, after the Applicant elects any of species 1-10 as disclosed above, the Applicant must also elect one of the follow subspecies:

**Subspecies A-** wherein slits are formed on the top portions of hemispherical dome protuberances;

**Subspecies B-** wherein slits are formed on the top portions protuberances constituted of lamellae;

**Subspecies C-** wherein slits are formed between two consecutive protuberances;

**Subspecies D-** wherein a surface of a distribution zone comprises protuberances adjacent slits;

**Subspecies E-** wherein a distribution zone comprises a flexible membrane resting on a rigid perforated plate comprising orifices opening on the hemispherical protuberances;

**Subspecies F-** wherein the distribution zone comprises a flexible membrane constituted of thick structure and by a semi-rigid intercalary zone;

**Subspecies G-** wherein the distribution zone comprises exterior reliefs;

**Subspecies H-** wherein the distribution zone can be closed by a plug;

**Subspecies I-** wherein the distribution zone can be closed by a laminated adhesive

**Subspecies J-** wherein the reservoir is constituted of several compartments

Additionally, if Species 1 is elected the Applicant must also elect one of the following subspecies:

**Subspecies K-** wherein the piston is loaded by a weight;

**Subspecies L-** wherein the piston is subjected to action of a spring;

**Subspecies M-** wherein the piston is subjected to action of a base;

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise require all the limitations of an allowed generic claim.

The claims are deemed to correspond to the species listed above in the following manner:

Species 1: Claims 47, 50, 59, 60, and 62  
Species 2: Claims 47, 48, 49, 58, 72 and 73  
Species 3: Claims 47, 49, 56, 59, 60, 62, 68, 69, 71, 74 and 75  
Species 4: Claims 47, 49, 56, 59, 60, 62, 68, 70, 76, 77, 88 and 89  
Species 5: Claims 47, 49, 50, 57, 59, 60 and 62  
Species 6: Claims 47, 59, 81 and 82  
Species 7: Claims 47, 59, 83 and 84  
Species 8: Claims 47, 56, 69, 68 and 85  
Species 9: Claims 47, 59, 85 and 87  
Species 10: Claims 47, 59 and 92  
Species 11: Claims 47, 59 and 48  
Species 12: Claims 47, 49 54 and 55

Subspecies A: Claims 61, 63 and 64  
Subspecies B: Claims 61, 63 and 65  
Subspecies C: Claims 61 and 66  
Subspecies D: Claims 61 and 67  
Subspecies E: Claim 79  
Subspecies F: Claim 80  
Subspecies G: Claim 86  
Subspecies H: Claim 90  
Subspecies I: Claim 91  
Subspecies J: Claim 78

Subspecies K: Claim 51  
Subspecies L: Claim 52  
Subspecies M: Claim 53

The following claim(s) are generic: 47.

## 2. REQUIREMENT FOR UNITY OF INVENTION

As provided in 37 CFR 1.475(a), a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in a national stage application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim. See 37 CFR 1.475(e).

### WHEN CLAIMS ARE DIRECTED TO MULTIPLE CATEGORIES OF INVENTIONS

As provided in 37 CFR 1.475(b), a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

(1) A product and a process specially adapted for the manufacture of said product; or

- (2) A product and process of use of said product; or
- (3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or
- (4) A process and an apparatus or means specifically designed for carrying out the said process; or
- (5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

Otherwise, unity of invention might not be present. See 37 CFR 1.475(c).

3. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention or species.

Should applicant traverse on the ground that the inventions have unity of invention (37 CFR 1.475(a)), applicant must provide reasons in support thereof. Applicant may submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. Where such evidence or admission is provided by applicant, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEEGAN GUMBS whose telephone number is (571) 270-5608. The examiner can normally be reached on Monday through Friday 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. G./  
Examiner, Art Unit 3751  
July 16, 2010

/Gregory L. Huson/  
Supervisory Patent Examiner, Art Unit 3751